IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

RCRev..No. 236 of 2007()

RCA.82/2006 of IInd ADDL.DISTRICT COURT,ERNAKULAM
RCP.145/2005 of IIIRD ADDL.MUNSIFF & RENT CONTROLLER, ERNAKULAM

PETITIONER/APPELLANT/2ND RESPONDENT

P.SANKARANKUTTY NAIR, AGED 69,
S/O.PADMANABHA PANICKER, ADVOCATE, DOOR NO.XL/555 (OLD NO.XL/536), JEWEL JUNCTION, M.G.ROAD, ERNAKULAM.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

RESPONDENTS: RESPONDENTS/PETITIONERS AND 1ST RESPONDENT
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1. P.A.THOMAS, S/O.P.T.ANTONY,
34/41-A, BYE PASS, EDAPPALLY.

2. P.A.BABU @ BABU ALAPPAT,
41/433-A, BEL HEAVEN, RAJAJI ROAD, ERNAKULAM.

3. P.A.JOHN @ JOHNY ALAPPAT, A 12,
MAYURAM TENNIS CLUB, ENCLAVE, KOWDIAR, TRIVANDRUM.

4. MANUEL ALAPPATT, BLOOM FIELD,
KRISHNA SWAMY IYER ROAD, ERNAKULAM.

5. M/S ASSOCIATED LAWYERS, ADVOCATES,
DOOR NO.XL/555, (OLD NO.XL/536), JEWEL JUNCTION, M.G.ROAD, ERNAKULAM.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

R.C.Rev.No.236 OF 2007

Dated 24th July, 2007

ORDER

Koshy,J.

Revision petitioner is the second respondent in I.A.No.7557/2006 in RCP No.145/2005. The above rent control petition was filed by respondents 1 to 4 seeking eviction of the revision petitioner and 5th respondent from the petition schedule building under section 11(8) of the Kerala Buildings (Lease and Rent Control) Act. Revision petitioner and 5th respondent were the tenants. Respondents 1 to 4 who filed the R.C.P. were partners of the firm called 'P.T.Antony and Sons'. During the pendency of the RCP, the firm was dissolved on 1.8.2006. The first petitioner in RCP (R1) was examined on 14.8.2006 and case was posted on 18.8.06. On that day, an application for amending the RCP was filed as the partnership firm was dissolved and P.T.Antony and Sons became a proprietorship concern and petition under Section 11(8) was filed for expansion of the business of the above concern. Tenants have not started to adduce evidence. Only first respondent adduced evidence. The application for amendment was allowed by the rent control court as well as appellate authority. Since amendment application was allowed before evidence of the tenants, they can adduce such evidence as is

required. If the revision petitioner wants, he can call the respondents for further cross examination also. Landlord can also adduce further evidence as amendment application was allowed. In these circumstances, we see no ground to interfere with the orders of the courts below. It is settled law that petition for amendment of pleadings should be liberally constructed. Merely because trial started, it cannot be rejected. But, court should allow both sides to adduce such evidence so as to avoid prejudice to the parties. We see no infirmity in the impugned orders. We are not expressing any opinion regarding the merits of the case.0

The revision petition is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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